

OCT 16 2006



VIA FACSIMILE & REGULAR MAIL

William R. Norman, Jr.
Hobbs, Straus, Dean & Walker, LLP
117 Park Avenue
Oklahoma City, Oklahoma 73102
Fax: (405) 602-9426

Re: Interpretation of the Absentee Shawnee Tribe of Oklahoma Gaming Ordinance

Dear Mr. Norman:

Thank you for your letter, dated August 14, 2006, on behalf of the Absentee Shawnee Tribe of Oklahoma. In such letter, you advise that the Executive Committee of the Tribe construes the term "Governor" in Section 101 of its gaming ordinance to mean "the Executive Committee member delegated authority over gaming." Further, you note that the Tribe transferred such oversight authority from the Governor to the Lieutenant Governor. *See* Absentee Shawnee Tribe Resolution No. L-AS-2006-21. In this regard, by letter, dated May 19, 2006, Governor Larry Nuckolls informed the National Indian Gaming Commission (NIGC) that he was "no longer responsible for gaming operations" and that Lt. Governor Scott Miller was in charge of gaming. *See* (Letter from Governor Nuckolls to NIGC Field Investigator Ross of 5/19/06).

In this instance, we defer to the Executive Committee's interpretation of Section 101 of its gaming ordinance, as such interpretation does not conflict with the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, or NIGC regulations.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, reading "Jo-Ann M. Shyloski".
Jo-Ann M. Shyloski
Senior Attorney

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JUL 24 2006

July 18, 2006

Jo-Ann Shyloski, Senior Attorney
National Indian Gaming Commission
1441 L Street NW, Suite 9100
Washington, DC 20005


Re: Absentee Shawnee Tribe of Oklahoma Nation Gaming Ordinance Amendment

Dear Ms. Shyloski:

We write on behalf of the Absentee Shawnee Executive Committee to submit the recent amendment to the Chairman pursuant to 25 C.F.R. § 522.3(a). Enclosed please find for your review and approval a copy of Absentee Shawnee Resolution L-AS-2006-31 amending Section 101 of the Absentee Shawnee Gaming Ordinance.

Please review the enclosed materials, and if you have any questions or concerns please contact me at (405) 602-9425.

Sincerely,
HOBBS, STRAUS, DEAN & WALKER, LLP

By 
William R. Norman, Jr.

Enclosure

06 JUL 24 PM 2:07

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806 S.W. BROADWAY • SUITE 900 • PORTLAND, OR 97205 • TEL 503.242.1745 • FAX 503.242.1072
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LEGISLATIVE**RESOLUTION NO. L-AS-2006-31****ABSENTEE SHAWNEE TRIBE OF OKLAHOMA****SPECIAL EXECUTIVE COMMITTEE MEETING****JUNE 14, 2006**

JUL 24 2006

A RESOLUTION DULY ADOPTED BY THE EXECUTIVE COMMITTEE OF THE ABSENTEE SHAWNEE TRIBE OF OKLAHOMA DECLARES NULL AND VOID THE IMPROPER REMOVAL OF THE EXECUTIVE DIRECTOR AND THE REVISION OF THE ABSENTEE SHAWNEE TRIBE OF INDIANS OF OKLAHOMA GAMING ORDINANCE EFFECTIVE IMMEDIATELY.

WHEREAS, the Absentee Shawnee Tribe of Oklahoma is a federally recognized Indian tribe exercising all inherent sovereign rights from time immemorial; and

WHEREAS, the Absentee Shawnee Tribe of Oklahoma has a constitution approved by the Department of Interior last amended in August 1988; and

WHEREAS, the Executive Committee of the Absentee Tribe of Oklahoma is empowered by the Constitution to speak and otherwise conduct business in the name of, and on behalf of, the Absentee Tribe of Oklahoma; and

WHEREAS, it is the responsibility of the Executive Committee to uphold its constitutional responsibility to the Tribe and its membership as the highest priority; and

WHEREAS, Section 101 of the Absentee Shawnee Tribe of Oklahoma Gaming Ordinance provides that the Gaming Commission Executive Director reports to and receives guidance from the Governor and the Executive Committee; and

WHEREAS, on June 8, 2006, Governor Nuckolls unilaterally took action purporting to discharge the Executive Director of Gaming; and

WHEREAS, such action was improper and invalid absent action by the Executive Committee approving removal of the Executive Director, and

NOW THEREFORE BE IT RESOLVED, the Executive Committee of the Absentee Shawnee Tribe of Oklahoma hereby declares that the attempt by Governor Nuckolls to discharge the Executive Director of Gaming, is hereby declared null and void and of no effect; and

BE IT FURTHER RESOLVED, that Mr. Monty Harris, Executive Director of Gaming shall remain in such position and continue to carry out and discharge the duties until further action by the Executive Committee, and

L-AS-2006
June 14, 2006
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BE IF FURTHER RESOLVED, the Executive Committee of the Absentee Shawnee Tribe of Oklahoma hereby revises and amends the Absentee Shawnee Tribe of Indians Gaming Ordinance in accordance with Exhibit "A" attached hereto, by deleting the strike-through language, and adding the underlined language as shown.

CERTIFICATION

We, Scott Miller, Lieutenant Governor and Steve Johnson, Secretary of the Absentee Shawnee Tribe of Oklahoma, do hereby certify that this Resolution No. L-AS-2006-31 to be a true and exact copy as approved by the Executive Committee of the Absentee Shawnee Tribe of Oklahoma at a duly called meeting held June 14, 2006, there being a quorum present, by vote of 3 in favor, 0 opposed, and 0 abstentions, as follows: **Lt. Governor Miller: N/A, Secretary Johnson: Yes, Treasurer Ellis: Yes, Representative Ellis: Yes, Governor Nuckolls: Absent.**


SCOTT MILLER, Lt. Governor


STEVE JOHNSON, Secretary



EXHIBIT A

TITLE I – DEVELOPMENT, ADMINISTRATION AND ENFORCEMENT

Section 101: Absentee Shawnee Tribe Gaming Commission Established.

In order to provide for the orderly development, administration and regulation of all Absentee Shawnee Tribe of Oklahoma gaming enterprises, there is established the Absentee Shawnee Tribal Gaming Commission. The Absentee Shawnee ~~Tribal Governor~~ Executive Committee member delegated authority to oversee the Tribe's gaming by Executive Committee Resolution shall nominate persons to serve as Gaming Commissioners, subject to confirmation by the Tribal Executive Committee. The Gaming Commission shall consist of three (3) duly appointed, part-time gaming commissioners, as well as full-time staff departments including, but not limited to, Executive Director, Compliance, Surveillance, Background Licensing, Internal Audit, and any other departments or divisions that may be required in order to accommodate future gaming enterprise growth. The Gaming Commissioners shall recommend, and the ~~Governor~~ Executive Committee member delegated authority to oversee the Tribe's gaming by Executive Committee Resolution shall appoint, a Gaming Commission Executive Director subject to confirmation by the Tribal Executive Committee. The Gaming Commission Executive Director shall report to and receive guidance from the ~~Governor~~ Executive Committee member delegated authority to oversee the Tribe's gaming by Executive Committee Resolution and the Executive Committee on a regular basis. Removal of the Executive Director shall be by Executive Committee Resolution. Under the direction of the Gaming Commission Executive Director, the gaming commission full-time staff shall monitor the tribe's gaming enterprise(s) for compliance with all National Indian Gaming Commission (NIGC) and tribally prescribed rules, regulations, and policies; track, audit, and recommend annual external audit contracts, and verify all gaming revenues; prepare appropriate annual Gaming Commission budgets, hire and staff all Gaming Commission departments and divisions for all Absentee Shawnee Tribal gaming enterprises; inspect and supervise the installation of all gaming equipment; perform background investigations of gaming enterprise employees and gaming enterprise vendors; recommend the issuance of, or denial of, Absentee Shawnee Tribal gaming licenses; recommend the suspension or revocation of existing gaming licenses; as well as any other duties prescribed by the Absentee Shawnee Tribal Executive Committee either orally or in writing.

A Gaming Commissioner shall be a lay member of the tribal community, or a non-tribal member closely associated with the Absentee Shawnee Tribe. All Gaming Commissioners shall serve in a part-time capacity only, and any appointment shall be based only on the integrity and qualifications of the appointee, and not on popularity, as the nature of the Gaming Commissioner position is to adjudicate and fairly apply the rules, regulations, and policies adopted by the National Indian Gaming Commission, the State of Oklahoma, and the Absentee Shawnee Tribal Executive Committee, and not to represent the tribal community at large. Said Commissioners shall be appointed for a period of three (3) years. In order to maintain continuity, the terms for each Gaming Commissioner should be staggered such that only one Commissioner is replaced each year. A quorum for the conduct of business shall be at least two (2) of the three (3) member commission. However, changes to the Absentee Shawnee Tribal Minimum Internal Control

Standards or to the Gaming Commission Policies and Procedures must be approved by all three Gaming Commissioners. Each Commissioner is vested with one (1) vote for any decision. All Gaming Commissioners, in order to support the high standards and strict compliance required of all other gaming enterprise associates, should be subject to the same background investigations and licensing standards as all gaming enterprise and gaming commission employees, and their investigations should be handled in the same manner as any other background investigation, and be conducted by the gaming commission's background investigators. During their three (3) year term in office, Gaming Commissioners are prohibited from participating in any aspect of gaming in any of the Absentee Shawnee Tribe gaming enterprises and facilities. The Commissioners may be suspended by the Executive Committee for ninety (90) days for cause. During such suspension the Executive Committee may appoint a qualified person to act as a replacement for the suspended Commissioner. Further, should any vacancy occur in the Gaming Commissioner positions, the nomination process shall be initiated by the ~~Governor~~ Executive Committee member delegated authority to oversee the Tribe's gaming by Executive Committee Resolution and the unexpired portion of the Commissioner's term shall be filled in the same manner as the initial appointment of a Commissioner.

A Gaming Commissioner's duties and responsibilities are limited and specific in order to enable each Commissioner to fairly and impartially review and adjudicate all matters relating to employee, vendor, and gaming enterprise compliance with all established National Indian Gaming Commission (NIGC), State of Oklahoma, and tribally prescribed rules, regulations, and policies. Gaming Commissioners shall review all employee and vendor licensing applications and approve the issuance or deny the issuance of valid temporary gaming licenses; approve or deny the suspension or revocation of existing gaming licenses; hear and decide appeals regarding gaming enterprise employee licensing or gaming patron disputes; adjudicate all other matters related to violations of the Absentee Shawnee Tribal Minimum Internal Control Standards brought before the Gaming Commissioners by full-time Gaming Commission departments or divisions; review compliance, and internal and external audit reports to ensure compliance with NIGC, Oklahoma State, and tribally prescribed rules, regulations, and policies; review surveillance and compliance investigation reports; and, following NIGC review of all key employee gaming license applications, make final determination regarding the issuance of permanent gaming licenses. Gaming Commissioners shall not attempt to manage, control, manipulate, or influence Absentee Shawnee Tribal gaming enterprise operations in any way. Gaming Commissioners do not have supervisory authority over full-time gaming commission staff, and therefore should not participate in, direct or attempt to influence the outcome, course or direction of a gaming commission investigation into any aspect of compliance, surveillance, revenue control, background investigation, or internal audit, or any other gaming commission department or division, but must remain independent of all gaming operations and investigations so as to be prepared at all times to fairly and impartially judge all matters brought before them.